

1. Order dated 15th October, 2009.

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THE HON'BLE MR. JUSTICE K. THANKAPPAN, MEMBER (J)

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THE HON'BLE MR. C. R. MOHAPATRA, MEMBER (A)

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This Original Application has been filed by Shri Bajrang Lal Kotriwala stating to be the Joint Secretary for and on behalf of the Members of the IMB Mining Engineers Association, Indira Bhawan, Civil Lines, Nagpur praying for the following relief:

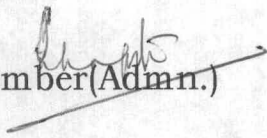
- “(a) Strike down the amended recruitment rule of 18.10.2003 making 60% quota for direct appointment to the posts of Regional Controller of Mines;
- (b) Direct to fill up all posts of RCM cent percent by promotion as was in force prior to amendment by necessary amendment.
- (c) Pass any other order or direction which would afford complete relief to the petitioner in the facts and circumstances of this case.”

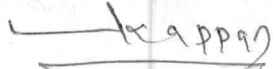
Though at the time of admitting this OA by this Tribunal, question of maintainability was not raised, Respondents raised this as the primary issue, besides contesting on the merit of the matter in the counter filed in this case. It has been contended that the association or a trade union or any such other association can file OA before this Tribunal provided the association is a registered/recognized union. There is no document filed by the Applicant along with OA that the present Association is a registered/recognized one. That apart, the Members of the association have challenged the amendment made to the Recruitment Rule in this OA. It is the specific stand of the Respondents in their counter that by



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amending rule no discrimination is carried out so as to cause any injustice to anybody. It is well settled principle of law that what is guaranteed by Article 16 (1) of the Constitution is equality of opportunity in the matter of an appointment in public Services and nothing more. It is open to the Government to frame necessary rules prescribing the requisite qualifications and it is also open to the authorities to lay down such perquisite conditions for appointment as would be conducive to the maintenance of proper discipline amongst Government servant, (Banarasi Das v. State of UP, AIR 1955 SC 520). Further the rulings of the Hon'ble Apex Court in the case of P.U. Joshi and others v Accountant General, Ahmedabad and others, 2003(2) SCC 632 that "there is no right in any employee of the state to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service. Taking into consideration all these above, we are of the considered view that this OA sans any merit and is accordingly, dismissed. No costs.


Member (Admin.)


Member (Judicial)